



January 26, 2023

VIA ECF

Hon. Mary Kay Vyskocil
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

USDC SDNY
DOCUMENT
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DATE FILED: 1/27/2023

Re: *Daniel Zerafa v. Midas Property Management Corp., et al.*
Docket No.: 22-cv-01755 (MKV)

Dear Judge Vyskocil:

This firm represents Plaintiff Daniel Zerafa, who brought the above-referenced matter against Defendants Midas Property Management Corp., Midas Management Assoc. Inc., The Herkimer Executive House, Inc., 29-33 Convent Avenue HDfC, Michael Padernacht, Daniel Padernacht, Christopher Lim, Gerard Karlen, and Nicholas Casucci (collectively as “Defendants”) for alleged violations of the Fair Labor Standards Act, New York Labor Law and New York common law. Having reached a settlement in principle, the Court entered an order directing the parties to submit a motion for approval of the parties’ settlement agreement, pursuant to Cheeks v. Freeport Pancake House, Inc., 796 F.3d 199 (2d Cir. 2015), by January 26, 2023. Plaintiff now writes jointly and with consent of all Defendants to request an extension of time to submit Plaintiff’s motion for approval.

Plaintiff sought one prior extension of the deadline to submit a motion for approval based the undersigned and my family suffering from Covid-19 and soon after the flu, which caused me to be out of the office for extended periods. Since then, the parties have sought to negotiate and finalize the terms of their formal settlement agreement with the intention and expectation of submitting their motion for approval on January 26, 2023. However, because of the challenges associated with negotiating this settlement agreement, which involved resolving a number of complex legal issues and many parties with divergent interests (and several sets of attorneys representing them), the parties ultimately reached an agreement on the final terms of the agreement on January 25, 2023. As a result, the parties require additional time to obtain the necessary signatures for their settlement agreement and to then submit their motion for approval of the settlement agreement.

Accordingly, Plaintiff writes jointly and with consent of all Defendants to request an extension of time to submit Plaintiff’s motion for approval from January 26, 2023 until February 3, 2023. This extension, if granted, will not impact any other deadlines.

The parties are mindful of the Court’s prior order that there would be “[n]o further extensions” of this deadline to submit a motion for approval and have strived to meet the

Court's January 26, 2023 deadline. The parties have reached the final terms of their formal settlement agreement and are working to execute the settlement agreement and prepare their motion for approval based on those finalized terms. Because of this, the parties believe that returning this matter to litigation – or setting a deadline for Defendants' anticipated motions to dismiss the Amended Complaint, which is the stage of the litigation immediately prior to mediation – would require the Court and the parties to expend unnecessary resources and expenses in light of the parties' settlement.

Lastly, if the Court is not inclined to grant the parties' request, then the parties request that the Court set a deadline for the Defendants to submit their anticipated motions to dismiss the Amended Complaint for thirty days from the Court's order to permit Defendants time to prepare those motions.

We thank the Court for its consideration of this request.

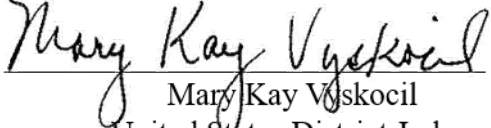
Respectfully submitted,

/S/ David D. Barnhorn, Esq.
DAVID D. BARNHORN, ESQ.

C: All Counsel of Record *via* ECF

This request for an extension of time, until February 3, 2023, to submit *Cheeks* materials is GRANTED.

Date: January 27, 2023
New York, New York


Mary Kay Vyskocil
United States District Judge